

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TODD SIEVERT,

Plaintiff,

v.

FEDERAL CREDIT CORP., 2ND
CHANCE COLLECTIONS, LLC,
ABC INSURANCE COMPANY,
AND DEF INSURANCE COMPANY,
A Fictitious Insurance Company,

Defendants.

ORDER

08-c-263-bbc

Defendants Federal Credit Corp, 2nd Chance Collections, LLC, ABC Insurance Company and DEF Insurance Company have moved to reopen this case and set aside the default that was entered on September 25, 2008, after defendants failed to appear, plead or otherwise defend against plaintiff Todd Sievert's complaint. A hearing was held on the motion on October 29, 2008. Plaintiff appeared by counsel, Anthony Baer. Defendants' counsel participated by telephone.

In support of their motion, defendants' counsel asserted that defendants always intended to defend the suit but were misled by their understanding that plaintiff was

interested in settling the case rather than proceeding with litigation. Although the excuse offered by defendants' counsel is weak and reflects a serious disregard for his obligations to the court and for the time of opposing counsel, I believe that the interests of justice are best served by hearing the case on its merits. Defendants moved promptly to reopen once the default was entered and plaintiff has not been seriously prejudiced by the delay. Therefore, I granted defendants' motion to reopen and, at the same time, granted plaintiff's motion for a finding of counsel liability for excessive costs in the amount of \$1000 for the extra expense, aggravation and time required to seek a default judgment and defend against the motion to reopen. In addition, I granted defendants' counsel's motion to appear in the case pro hac vice.

Plaintiff has also moved to dismiss defendants' counterclaims and cross claims. That motion will be granted because defendants have not served the counterclaims or cross claims properly.

ORDER

IT IS ORDERED that the motion of defendants Federal Credit Corp, 2nd Chance Collections, LLC, ABC Insurance Company and DEF Insurance Company to reopen this case and set aside the default judgment entered on September 25, 2008 (dkt. 13) is GRANTED; plaintiff Todd Sievert's motion for default judgment (dkt. 9) is DENIED; his motion for an

award of excessive costs incurred by defendants' counsel's actions (dkt. 30) is GRANTED and defendants' counsel Chad Steur is ordered to pay plaintiff \$1,000 for the costs and fees he has incurred. FURTHER, IT IS ORDERED that plaintiff's motion to strike and dismiss counterclaims and cross claims (dkt. 30) is GRANTED.

Entered this 31st day of October, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge